

I saw firsthand the effect that this legislation can have. When I visited Allen University in South Carolina in 2002, I went to Arnett Hall—a building that had been transformed from an eyesore into a beautiful and stately facility with the help of Federal funds. In the past, students and faculty who walked into the dilapidated hall would be left with the clear impression that we are neglecting these historic treasures. Now, they visit the restored hall and are left with the impression that we consider Historically Black Colleges and Universities central to our history and to our future.

Our HBCU legislation was an important step to fulfilling the dream, as Dr. Martin Luther King famously captured it, of an America true to its creed that we are all created equal. Each of these 130 institutions of higher learning, educating 300,000 African-American students, is a living memorial to the dream of equal educational opportunity for all—living memorials we are morally bound to preserve. This week, let us recall the proud heritage and valuable contribution Historically Black Colleges and Universities make to our Nation, and redouble our efforts to keep their doors open for future generations.

Ms. LANDRIEU. Mr. President, today I rise to honor the Historically Black Colleges and Universities around the country that serve over 215,000 of our finest African-American students.

Since the first HBCU was founded in 1837, HBCUs have played an important role in our higher education system. They have educated some of our most prominent African-American leaders, such as the Reverend Dr. Martin Luther King, Jr., former U.S. Supreme Court Justice Thurgood Marshall, educator Booker T. Washington, former U.S. Surgeon General David Satcher, Nobel Laureate Toni Morrison, and Louisiana native and former United Nations Ambassador Andrew Young, Jr., to just name a few. Today, 65 percent of all African-American physicians, 50 percent of African-American engineers, and 35 percent of African-American lawyers are graduates of an HBCU. It is clear that HBCUs have and continue to play a vital role in our higher education system, and for that, I honor them today.

I would specifically like to praise the six HBCUs in my home state of Louisiana that produce exceptionally fine graduates: Dillard University in New Orleans, Grambling State University in Grambling, Southern University and Agricultural and Mechanical College in Baton Rouge, Southern University in Shreveport, and Xavier University in New Orleans. These schools serve roughly 30,000 Louisiana higher education students and prepare them to be tomorrow's leaders. For that, I say thank you.

Recognizing the importance of HBCUs, I am proud to lend my support to S. Res. 422, designating this week as

“National Historically Black Colleges and Universities Week.” And, I am proud to support the College Quality, Affordability, and Diversity Improvement Act, S. 1793, which extends and increases the Title V, Part B programs under the Higher Education Act that strengthen HBCUs. As we enter the final weeks of the 108th Congress, I look forward to discussing, debating, and passing this important piece of legislation, and as we move through the appropriations process, I urge my colleagues to ensure that adequate funding is given to HBCUs.

Historically Black Colleges and Universities have given a great amount to our higher education system through the years, and today I give them my thanks and praise.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 422) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 422

Whereas there are 105 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning September 12, 2004, as “National Historically Black Colleges and Universities Week”.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning September 12, 2004, as “National Historically Black Colleges and Universities Week”; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

Mr. FRIST. Mr. President, this resolution relates to historically black colleges and universities and the designation of a period of time to express appreciation for the tremendous function and job they carry out in this great country of ours.

In my own city of Nashville, my hometown, and where I live now, we

have two wonderful historically black institutions of learning. One is a medical center, Meharry Medical College; and the another is Fisk University. The contributions those two institutions of learning have made to our community, and indeed to the global community, and in the sense of Meharry to the national community of physicians, has been just tremendous.

I know both sides of the aisle take great pleasure in once again recognizing this period of time that we can celebrate the great work that is done.

THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following Calendar numbers en bloc: 466 through 469, 522, 524 through 527, 532, 533, 600 through 604, 611 through 618, 626 through 629, and 675 through 689.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent that all committee amendments, where applicable, be agreed to, the bills, as amended, if amended, be read a third time and passed, the title amendments, where applicable, be adopted, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPLEMENTATION OF FISH PASSAGE AND SCREENING FACILITIES AT NON-FEDERAL WATER PROJECTS

The Senate proceeded to consider the bill (S. 1307) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. DEFINITIONS.

[As used in this Act—

[(1) “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation;

[(2) “Reclamation” means the Bureau of Reclamation, United States Department of the Interior;

[(3) “Fish passage and screening facilities” means ladders, collection devices, and all other kinds of facilities which enable fish to pass through, over, or around water diversion structures; facilities and other constructed works which modify, consolidate, or replace water diversion structures in order to achieve fish passage; screens and other devices which reduce or prevent entrainment

and impingement of fish in a water diversion, delivery, or distribution system; and any other facilities, projects, or constructed works which are designed to provide for or improve fish passage while maintaining water deliveries and to reduce or prevent entrainment and impingement of fish in a water storage, diversion, delivery, or distribution system of a water project;

[(4) "Federal reclamation project" means a water resources development project constructed, operated, and maintained pursuant to the Reclamation Act of 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto;

[(5) "Non-Federal party" means any non-Federal party, including federally recognized Indian tribes, non-Federal governmental and quasi-governmental entities, private entities (both profit and non-profit organizations), and private individuals;

[(6) "Snake River Basin" means the entire drainage area of the Snake River, including all tributaries, from the headwaters to the confluence of the Snake River with the Columbia River; and

[(7) "Columbia River Basin" means the entire drainage area of the Columbia River located in the United States, including all tributaries, from the headwaters to the Columbia River estuary.

SEC. 2. AUTHORIZATION.

[(a) Subject to the requirements of this Act, the Secretary is authorized to plan, design, and construct, or provide financial assistance to non-Federal parties to plan, design, and construct, fish passage and screening facilities at any non-Federal water diversion or storage project located anywhere in the Columbia River Basin when, and only when, the Secretary determines that such facilities would enable Reclamation to meet its obligations under 16 U.S.C. 1536(a)(2) regarding the construction and continued operation and maintenance of all Federal reclamation projects located in the Columbia River Basin, excluding the Federal reclamation projects located in the Snake River Basin.

SEC. 3. LIMITATIONS.

[(a) The Secretary may undertake the construction of, or provide financial assistance covering the cost to the non-Federal parties to construct, fish passage and screening facilities at non-Federal water diversion and storage projects located anywhere in the Columbia River Basin only after entering into a voluntary, written agreement with the non-Federal party or parties who own, operate, and maintain the project, and any associated lands, involved.

[(b) Any financial assistance made available pursuant to this Act shall be provided through grant agreements or cooperative agreements entered into pursuant to and in compliance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501).

[(c) The Secretary may require such terms and conditions as will ensure performance by the non-Federal party, protect the Federal investment in fish passage and screening facilities, define the obligations of the Secretary and the non-Federal party, and ensure compliance with this Act and all other applicable Federal, State, and local laws.

[(d) All right and title to, and interest in, any fish passage and screening facilities constructed or funded pursuant to the authority of this Act shall be held by the non-Federal party or parties who own, operate, and maintain the non-Federal water diversion and storage project, and any associated lands, involved. In addition, the operation, maintenance, and replacement of such facilities shall be the sole responsibility of such party or parties and shall not be a project cost assignable to any Federal reclamation project.

[(e) Consultation under Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) shall not be required based solely on the provision of financial assistance under this Act. Projects or activities that affect listed species shall remain subject to applicable provisions of the Endangered Species Act of 1973.

SEC. 4. OTHER REQUIREMENTS.

[(a) In carrying out this Act, the Secretary shall be subject to all Federal laws applicable to the actions to be undertaken for the construction of fish passage and screening facilities. The Secretary shall assist the non-Federal party or parties who own, operate, and maintain a non-Federal water diversion or storage project, and any associated lands, to obtain and comply with any required State, local, or tribal permits.

[(b) The Secretary shall comply with State water law in the application of this Act. All water rights shall remain with the owner or operator of any non-Federal water diversion and storage project who receives assistance pursuant to this Act.

[(c) The Secretary shall coordinate with the Northwest Power Planning Council; appropriate agencies of the States of Idaho, Oregon, and Washington; and appropriate federally recognized Indian tribes in carrying out the program authorized by this Act.

SEC. 5. INAPPLICABILITY OF FEDERAL RECLAMATION LAW.

[(a) The Reclamation Act of 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, shall not apply to the non-Federal water projects at which the fish passage and screening facilities authorized by this Act are located, nor to the lands which such projects irrigate.

[(b) Notwithstanding any provision of law to the contrary, the expenditures made by the Secretary pursuant to this Act shall not be a project cost assignable to any Federal reclamation project (either as a construction cost or as an operation and maintenance cost) and shall be non-reimbursable and non-returnable to the United States Treasury.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[(There are authorized to be appropriated such amounts as are necessary for the purposes of this Act.)]

SECTION 1. DEFINITIONS.

As used in this Act—

(1) "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation;

(2) "Reclamation" means the Bureau of Reclamation, United States Department of the Interior;

(3) "Fish passage and screening facilities" means ladders, collection devices, and all other kinds of facilities which enable fish to pass through, over, or around water diversion structures; facilities and other constructed works which modify, consolidate, or replace water diversion structures in order to achieve fish passage; screens and other devices which reduce or prevent entrainment and impingement of fish in a water diversion, delivery, or distribution system; and any other facilities, projects, or constructed works or strategies which are designed to provide for or improve fish passage while maintaining water deliveries and to reduce or prevent entrainment and impingement of fish in a water storage, diversion, delivery, or distribution system of a water project;

(4) "Federal reclamation project" means a water resources development project constructed, operated, and maintained pursuant to the Reclamation Act of 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto;

(5) "Non-Federal party" means any non-Federal party, including federally recognized Indian tribes, non-Federal governmental and quasi-governmental entities, private entities

(both profit and non-profit organizations), and private individuals;

(6) "Snake River Basin" means the entire drainage area of the Snake River, including all tributaries, from the headwaters to the confluence of the Snake River with the Columbia River;

(7) "Columbia River Basin" means the entire drainage area of the Columbia River located in the United States, including all tributaries, from the headwaters to the Columbia River estuary; and

(8) "Habitat improvements" means work to improve habitat for aquatic plants and animals within a currently existing stream channel below the ordinary high water mark, including stream reconfiguration to rehabilitate and protect the natural function of streambeds, and riverine wetland construction and protection.

SEC. 2. AUTHORIZATION.

(a) IN GENERAL.—Subject to the requirements of this Act, the Secretary is authorized to plan, design, and construct, or provide financial assistance to non-Federal parties to plan, design, and construct, fish passage and screening facilities or habitat improvements at any non-Federal water diversion or storage project located anywhere in the Columbia River Basin when the Secretary determines that such facilities would enable Reclamation to meet its obligations under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) regarding the construction and continued operation and maintenance of all Federal reclamation projects located in the Columbia River Basin, excluding the Federal reclamation projects located in the Snake River Basin.

(b) PROHIBITION OF ACQUISITION OF LAND FOR HABITAT IMPROVEMENTS.—Notwithstanding subsection (a), nothing in this Act authorizes the acquisition of land for habitat improvements.

SEC. 3. LIMITATIONS.

(a) WRITTEN AGREEMENT.—The Secretary may undertake the construction of, or provide financial assistance covering the cost to the non-Federal parties to construct, fish passage and screening facilities at non-Federal water diversion and storage projects or habitat improvements located anywhere in the Columbia River Basin only after entering into a voluntary, written agreement with the non-Federal party or parties who own, operate, or maintain the project, or any associated lands involved.

(b) FEDERAL SHARE.—The Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements shall be not more than 75 percent.

(c) NON-FEDERAL SHARE.—

(1) Except as provided in paragraph (4), a written agreement entered into under subsection (a) shall provide that the non-Federal party agrees to pay the non-Federal share of the total costs of constructing the fish passage and screening facility or habitat improvements.

(2) The non-Federal share may be provided in the form of cash or in-kind services.

(3) The Secretary shall—

(A) require the non-Federal party to provide appropriate documentation of any in-kind services provided; and

(B) determine the value of the in-kind services.

(4) The requirements of this subsection shall not apply to Indian tribes.

(d) GRANT AND COOPERATIVE AGREEMENTS.—Any financial assistance made available pursuant to this Act shall be provided through grant agreements or cooperative agreements entered into pursuant to and in compliance with chapter 63 of title 31, United States Code.

(e) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions as will ensure performance by the non-Federal party, protect the Federal investment in fish passage and screening facilities or habitat improvements, define the obligations of the Secretary and the non-Federal party, and ensure compliance with

this Act and all other applicable Federal, State, and local laws.

(f) **RIGHTS AND DUTIES OF NON-FEDERAL PARTIES.**—All right and title to, and interest in, any fish passage and screening facilities constructed or funded pursuant to the authority of this Act shall be held by the non-Federal party or parties who own, operate, and maintain the non-Federal water diversion and storage project, and any associated lands, involved. The operation, maintenance, and replacement of such facilities shall be the sole responsibility of such party or parties and shall not be a project cost assignable to any Federal reclamation project.

SEC. 4. OTHER REQUIREMENTS.

(a) **PERMITS.**—The Secretary may assist a non-Federal party who owns, operates, or maintains a non-Federal water diversion or storage project, and any associated lands, to obtain and comply with any required State, local, or tribal permits.

(b) **FEDERAL LAW.**—In carrying out this Act, the Secretary shall be subject to all Federal laws applicable to activities associated with the construction of a fish passage and screening facility or habitat improvements.

(c) **STATE WATER LAW.**—

(1) In carrying out this Act, the Secretary shall comply with any applicable State water laws.

(2) Nothing in this Act affects any water or water-related right of a State, an Indian tribe, or any other entity or person.

(d) **REQUIRED COORDINATION.**—The Secretary shall coordinate with the Northwest Power and Conservation Council; appropriate agencies of the States of Idaho, Oregon, and Washington; and appropriate federally recognized Indian tribes in carrying out the program authorized by this Act.

SEC. 5. INAPPLICABILITY OF FEDERAL RECLAMATION LAW.

(a) **IN GENERAL.**—The Reclamation Act of 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, shall not apply to the non-Federal water projects at which the fish passage and screening facilities authorized by this Act are located, nor to the lands which such projects irrigate.

(b) **NONREIMBURSABLE AND NONRETURNABLE EXPENDITURES.**—Notwithstanding any provision of law to the contrary, the expenditures made by the Secretary pursuant to this Act shall not be a project cost assignable to any Federal reclamation project (either as a construction cost or as an operation and maintenance cost) and shall be non-reimbursable and non-returnable to the United States Treasury.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as are necessary for the purposes of this Act.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1307), as amended, was read the third time and passed.

WALLOWA LAKE DAM REHABILITATION AND WATER MANAGEMENT ACT OF 2004

The Senate proceeded to consider the bill (S. 1355) to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in *italic*.)

S. 1355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

[This Act may be cited as the “Wallowa Lake Dam Rehabilitation and Water Management Act of 2003”.]

SEC. 2. DEFINITIONS.

[In this Act:

(1) **ASSOCIATED DITCH COMPANIES, INCORPORATED.**—The term “Associated Ditch Companies, Incorporated” means the non-profit corporation by that name (as established under the laws of the State of Oregon) that operates Wallowa Lake Dam.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(3) **WALLOWA LAKE DAM REHABILITATION PROGRAM.**—The term “Wallowa Lake Dam Rehabilitation Program” means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document entitled, “Phase I Dam Assessment and Preliminary Engineering Design”, dated October 2001, and on file with the Bureau of Reclamation.

(4) **WALLOWA VALLEY WATER MANAGEMENT PLAN.**—The term “Wallowa Valley Water Management Plan” means the program developed for the Wallowa River watershed, as contained in the document entitled “Wallowa Lake Dam Rehabilitation and Water Management Plan Vision Statement”, dated February 2001, and on file with the Bureau of Reclamation.

SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.

[**(a) AUTHORIZATION.**—The Secretary—

(1) may provide funding to the Associated Ditch Companies, Incorporated, in order for the Associated Ditch Companies, Incorporated, to plan, design and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program; and

(2) in cooperation with tribal, State and local governmental entities, may participate in planning, design and construction of facilities needed to implement the Wallowa Valley Water Management Plan.

[**(b) COST SHARING.**—

(1) **IN GENERAL.**—The Federal share of the costs of activities authorized under this Act shall not exceed 80 percent.

(2) **EXCLUSIONS FROM FEDERAL SHARE.**—There shall not be credited against the Federal share of such costs—

(A) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

(B) expenditures made by individual farmers in any Federal farm or conservation program.

(C) **COMPLIANCE WITH STATE LAW.**—The Secretary, in carrying out this Act, shall comply with otherwise applicable State water law.

(D) **PROHIBITION ON HOLDING TITLE.**—The Federal Government shall not hold title to any facility rehabilitated or constructed under this Act.

(E) **PROHIBITION ON OPERATION AND MAINTENANCE.**—The Federal Government shall not be responsible for the operation and maintenance of any facility constructed or rehabilitated under this Act.

(F) **OWNERSHIP AND OPERATION OF FISH PASSAGE FACILITY.**—Any facility located at Wallowa Lake Dam for trapping and transportation of migratory adult salmon may be owned and operated only by the Nez Perce Tribe.

SEC. 4. RELATIONSHIP TO OTHER LAW.

[Activities funded under this Act shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 (32

Stat. 388), and all Acts amendatory thereof or supplementary thereto.]

SEC. 5. APPROPRIATIONS.

[There is authorized to be appropriated to the Secretary \$32,000,000 for the Federal share of the costs of activities authorized under this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Wallowa Lake Dam Rehabilitation and Water Management Act of 2004”.]

SEC. 2. DEFINITIONS.

In this Act:

(1) **ASSOCIATED DITCH COMPANIES, INCORPORATED.**—The term “Associated Ditch Companies, Incorporated” means the nonprofit corporation established under the laws of the State of Oregon that operates Wallowa Lake Dam.

(2) **PHASE II AND PHASE III OF THE WALLOWA VALLEY WATER MANAGEMENT PLAN.**—The term “Phase II and Phase III of the Wallowa Valley Water Management Plan” means the Phase II program for fish passage improvements and water conservation measures, and the Phase III program for implementation of water exchange infrastructure, developed for the Wallowa River watershed, as contained in the document entitled “Wallowa Lake Dam Rehabilitation and Water Management Plan Vision Statement”, dated February 2001, and on file with the Bureau of Reclamation.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) **WALLOWA LAKE DAM REHABILITATION PROGRAM.**—The term “Wallowa Lake Dam Rehabilitation Program” means the program for the rehabilitation of the Wallowa Lake Dam in Oregon, as contained in the engineering document entitled, “Phase I Dam Assessment and Preliminary Engineering Design”, dated December 2002, and on file with the Bureau of Reclamation.

SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.

(a) **GRANTS AND COOPERATIVE AGREEMENTS.**—The Secretary may provide grants to, or enter into cooperative or other agreements with, tribal, State, and local governmental entities and the Associated Ditch Companies, Incorporated, to plan, design, and construct facilities needed to implement the Wallowa Lake Dam Rehabilitation Program and Phase II and Phase III of the Wallowa Valley Water Management Plan.

(b) **CONDITIONS.**—As a condition of providing funds under subsection (a), the Secretary shall ensure that—

(1) the Wallowa Lake Dam Rehabilitation Program meets the standards of the dam safety program of the State of Oregon;

(2) the Associated Ditch Companies, Incorporated, agrees to assume liability for any work performed, or supervised, with funds provided to it under this Act; and

(3) the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to a facility rehabilitated or constructed under this Act.

(c) **COST SHARING.**—

(1) **IN GENERAL.**—The Federal share of the costs of activities authorized under this Act shall not exceed 80 percent.

(2) **EXCLUSIONS FROM FEDERAL SHARE.**—There shall not be credited against the Federal share of such costs—

(A) any expenditure by the Bonneville Power Administration in the Wallowa River watershed; and

(B) expenditures made by individual agricultural producers in any Federal commodity or conservation program.

(C) **COMPLIANCE WITH STATE LAW.**—The Secretary, in carrying out this Act, shall comply with otherwise applicable State water law.

(D) **PROHIBITION ON HOLDING TITLE.**—The Federal Government shall not hold title to any facility rehabilitated or constructed under this Act.